

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SEA WORLD OF FLORIDA, LLC  
Employer

and

Case 12-RC-257917

INTERNATIONAL UNION, SECURITY, POLICE  
AND FIRE PROFESSIONALS OF AMERICA  
(SPFPA)

Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review. The Employer's Request for Immediate Stay of Mail Ballot Election is denied as moot.<sup>1</sup>

MARVIN E. KAPLAN,

MEMBER

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<sup>1</sup> In denying review, we note that the Board's decision in *San Diego Gas & Electric*, 325 NLRB 1143, 1145 (1998), recognizes that Board elections should, as a general rule, be conducted manually and specifies well-settled guidelines for determining whether a mail-ballot election would normally be appropriate. But in *San Diego Gas & Electric*, the Board also recognized that "there may be other relevant factors that the Regional Director may consider in making this decision" and that "extraordinary circumstances" could permit a Regional Director to exercise his or her discretion outside of the guidelines set forth in that decision. *Id.*

In finding that a mail-ballot election is warranted in this case, we rely on the extraordinary circumstances resulting from the Covid-19 pandemic. The Board will continue considering whether manual elections should be directed based on the circumstances then prevailing in the Region charged with conducting the election, including the applicability to such a determination of the suggested protocols set forth in GC Memorandum 20-10. Under the circumstances presented in this case, however, we are satisfied that the Regional Director did not abuse his discretion in ordering a mail-ballot election here.

Additionally, we note that the Employer's request for review, which was prepared by its counsel, raises concerns about potential voter disenfranchisement due to mail-delivery delay. Because the Employer did not raise this issue to the Regional Director, it is not properly before us. See Sec. 102.67(e) of the Board Rules and Regulations. But even if it were, while the concerns the Employer raises could be relevant to whether a mail-ballot election is appropriate, the circumstances presented here fail to establish that the Regional Director abused his discretion. Any party is free to present evidence of any actual disenfranchisement of voters, if applicable, in post-election objections.

The Board is open to addressing the normal criteria for mail balloting in a future appropriate proceeding.

WILLIAM J. EMANUEL,

MEMBER

LAUREN McFERRAN,

MEMBER

Dated, Washington, D.C., September 22, 2020.